



KABAT CHAPMAN & OZMER LLP

Atlanta

Los Angeles

MEMO ENDORSED

RYAN D. WATSTEIN
 DIRECT DIAL: 404.400.7318
 E-MAIL: rwatstein@kcozlaw.com

March 1, 2021

VIA Electronic Case Filing System and Federal Express

Honorable Colleen McMahon
 Daniel Patrick Moynihan
 United States Courthouse
 500 Pearl Street, Courtroom 24A
 New York, New York 10007
 Fax: (212) 805-7942

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 OK - good luck!
 Colleen McMahon

Re: *The RDI Corporation v. Charter Communications, Inc.*; Case No. 1:19-cv-10929
 (S.D.N.Y.)

Dear Judge McMahon,

The Parties write jointly to inform the Court of their intent to pursue mediation and to request a continuance of the March 12, 2021 pre-trial order deadline until after mediation and a two-week continuance of the March 12, 2021 summary judgment deadline until March 26, 2021. As set forth in more detail below, the Parties respectfully submit that the instant request is supported by good cause, not foreseeable at the time the Court entered its amended Civil Case Management Plan (ECF 38).

Plaintiff The RDI Corporation ("RDI") initiated this action against Defendant Charter Communications, Inc. ("Charter") on November 26, 2019. (ECF 1.) During the first several months after Plaintiff filed the Complaint, the Parties engaged in settlement discussions, including discussing the possibility of filing a joint motion to stay the case while the Parties pursued mediation. The Parties requested and received extensions of multiple deadlines while pursuing possible settlement. (*See, e.g.*, ECF 17, 18, 19, 20, 21, 22, 25, 26.) Ultimately, those discussions fell through, and on March 4, 2020, the Parties faxed a Civil Case Management Plan to the Court. The Court entered the Civil Case Management Plan on March 6, 2020. (ECF 27.) Shortly thereafter, the Parties began exchanging discovery.

Thereafter, on March 27, 2020 and May 8, 2020, the Court entered general orders modifying existing scheduling orders and related matters in light of the current pandemic. As a result, discovery in this case was set to close in this matter on September 28, 2020. The Parties sought, and the Court granted, a brief extension of the discovery period through and including January 28, 2021, and a concomitant extension of all other case deadlines (ECF 37). On October 1, 2020, the Court entered an amended Civil Case Management Plan (ECF 38).

The Parties have completed discovery in this case, and per the amended Civil Case Management plan, are currently scheduled to submit a joint pretrial order and motions for summary

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judgment by no later than March 12, 2021. The Parties have recently conferred and have agreed to pursue mediation in this case after fully briefing summary judgment but prior to any summary judgment ruling. The Parties believe this course will lead to the most productive mediation for a variety of reasons related to the underlying facts and legal arguments, which are beyond the scope of this letter.

Accordingly, the Parties respectfully request that the Court continue the March 12, 2021 summary judgment motion deadline two weeks to March 26, 2021 and continue the March 12, 2021 joint pretrial order deadline, to be re-set, if necessary, after the Parties complete mediation. The Parties are cognizant that the Court disfavors such continuations but believes that fully briefing summary judgment will allow the Parties to more effectively mediate, but that avoiding the expense of preparing the pretrial order will preserve resources for potential resolution.

The Parties are in the process of identifying a mutually agreeable mediator and will provide an update to the Court regarding the status of their mediation efforts within forty-five days of the date of this letter. The Parties will also notify the Court upon the completion of mediation whether they have resolved this matter or whether a ruling on summary judgment and re-setting of the joint pretrial order deadline is necessary.

This is the second extension of the joint pretrial order and summary judgment deadline the Parties have sought and it is not being sought for purposes of delay.

Respectfully submitted,

/s/ Chelsea Koff (by permission)

Craig S. Barnett (*pro hac vice*)

cbarnett@stearnsweaver.com

Chelsea E. Koff (*pro hac vice*)

ckoff@stearnsweaver.com

STEARNS WEAVER MILLER

WEISSLER ALHADEFF &

SITTERSON, P.A.

200 East Las Olas Boulevard, Suite 2100

Fort Lauderdale, Florida 33301

Phone: (954) 462-9587

Jonathan D. Lupkin (JL-0792)

Michael B. Smith (MS-3281)

LUPKIN PLLC

80 Broad Street, Suite 1301

New York, NY 10004

Phone: (646) 367-2771

Fax: (646) 219-4870

Counsel for Plaintiff The RDI Corporation

/s/ Ryan D. Watstein

Ryan D. Watstein

(admitted *pro hac vice*)

rwatstein@kcozlaw.com

Daniel H. Gaynor

(admitted *pro hac vice*)

dgaynor@kcozlaw.com

Rachel M. Bishop

(admitted *pro hac vice*)

rbishop@kcozlaw.com

**KABAT CHAPMAN & OZMER
LLP**

171 17th Street NW, Suite 1550

Atlanta, Georgia 30363

Tel: (404) 400-7300

Fax: (404) 400-7333

*Counsel for Defendant Charter
Communications, Inc.*